

REMARKS

The following remarks are prepared in response to the Office Action of September 20, 2005. Claims 1-22 are pending in the application after entry of this amendment. Claims 10-20 are newly submitted. Applicant respectfully requests examination.

Election/Restrictions

Claims 4-6 are directed to the features of alleged species 2 and 4 shown in drawings 6, 8, 10a, 10b, and 10c (application, page 13, lines 9-16). Applicant provisionally elects species 2, figure 6, and respectfully traverses.

The restriction requirement is improper for at least three reasons.

First, restriction practice is limited by statute to “independent and distinct” inventions as claimed in the application (MPEP 802.01 (35 U.S.C. § 121)). Inventions are distinct if the inventions *as claimed* are not connected by design, operation or effect and wherein at least one invention is PATENTABLE OVER THE OTHER (though they may each be unpatentable over the prior art) (MPEP 802.02 (consistent emphasis)). It appears in this case as if the office action improperly imposes a restriction based on the disclosed embodiments and not based on inventions as claimed. This is evident because the restriction is directed to figures in the disclosure and not toward claims or claim language (office action, page 2, lines 2-7). Moreover, the office action itself characterizes species 2, figure 6, as a mere embodiment of the invention (office action, page 4, lines 9-11).

Second, the office action holds that there are five patentably distinct inventions as claimed but improperly fails to provide the reasons (office action, page 2, lines 2-7).

The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. (MPEP 808.01)

Absent reasoning, Applicant has a five part restriction based on figure numbers. The applicant is left to speculate as to what the examiner believes are the five distinct inventions.

Third, the office action restriction is improperly used to partition the invention disclosure. This can be seen most clearly in the rejection of claims 5-6. Dependent claims 5 and 6 depend from allowable claim 4 and recite an additional limitation for a tapered annulus and tapered end of cylindrical segment. The office action rejects claims 5-6 for lack of enablement because the limitation can not be found in the elected embodiment of figure 6 (office action, page 4, lines 8-10). Yet an enabling disclosure can easily be found in figure 8 and in the description, (page 12, line 18 – page 13, line 3). Based on the language of the rejection, the office action is asserting that the enabling disclosure for any claim must be found in figure 6 (office action, page 4, lines 9-11). Applicant submits that it is improper to partition embodiments of the invention disclosed in the specification by restriction and then require enabling disclosure for each restricted embodiment thereof.

For the reasons stated above the applicant believes the restriction requirement is improper and respectfully requests that it be withdrawn.

Drawings

The drawings were objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they do not include the reference character for pads 116a as discussed on page 11, line 5 (office action, page 3, lines 14-16). The cited text has been amended to remove the reference character 116 to comply with 37 C.F.R. § 1.84(p)(5). Applicant respectfully requests that the objection be withdrawn.

Claim Rejections - 35 U.S.C. § 112

Claims 5 and 6 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Applicant respectfully traverses.

The office action asserts that claim 5 recites tapered annulus and tapered end of cylindrical segment and that those features are found in the figure 6 embodiment (office action, page 4, lines 8-9). Although, an enabling disclosure may not be apparent from figure 6, it can easily be found in figure 8 and the written description (application, page 12, lines 18-22).

Applicant respectfully requests that this rejection be withdrawn.

Claims 4-6 were rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter.

The office action in rejecting claim 4 asserted the recital of alignment of the post relative to said segment (or post) makes no sense (office action, page 5, lines 1-2). The office action asserts that claim 4 would be allowable if rewritten to overcome the rejection. Claim 4 has been rewritten removing the recital. Applicant believes claim 4 to be definite and allowable.

Applicant respectfully requests that this rejection be withdrawn.

Claims 10-20 have been added to claim embodiments of the invention not disclosed in the references of record. Enabling disclosure of these embodiments can be found in the application.

Claim 10 is an independent claim for a mount comprising a mount assembly 40, a pivot structure 45, and a base unit 11.

Claims 11-16 depend from claim 10 adding structural features that more particularly define the invention and distinguish over the prior art of record.

Claim 17 is an independent claim for a satellite dish mount comprising a base 40, a compass 20, a level 25 and an attachment means (e.g. 14).

Claims 18-20 depend from claim 17 adding structural features that more particularly define the invention and distinguish over the prior art of record.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that all the pending claims are in condition for allowance, and such action is earnestly solicited. If the Examiner believes that a telephone interview will help further the prosecution of this case, he is respectfully requested to contact the undersigned attorney at the listed telephone number.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 20, 2005

By: _____

Tanya Kiatkulpiboon

[Signature]

Signature

Dated: December 20, 2005

Very truly yours,

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